

HARVEY I. WITTENBERG, STATE BAR NO. 37760  
THE LAW OFFICES OF HARVEY I. WITTENBERG  
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ATTORNEYS FOR DEFENDANT,  
THIRD PARTY PLAINTIFF, CROSS-DEFENDANT  
And CROSS-CLAIMANT, HORIZON LINES, LLC.

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

DANIEL MAXIE	)	Case No. C 04-02255 MMC
Plaintiff,	)	
vs.	)	
HORIZON LINES, LLC.,	)	<b>STIPULATION AND <del>PROPOSED</del></b>
MATSON NAVIGATION COMPANY	)	<b>ORDER CONTINUING PRE-TRIAL AND</b>
Defendants.	)	<b>TRIAL DATES.</b>
<u>AND RELATED CASES</u>	)	

For the reasons set forth below, all parties to the above-entitled action stipulate and respectfully request this court reschedule the following dates currently set in this action:

1. For the date to hold the next status conference:  
Present date November 17, 2006. Proposed new date January 19, 2007.
2. For the date statements for the Proposed new status conference January 19, 2007 are due:  
Present date November 9, 2006. Proposed new date January 12, 2007.
3. For the last day by which to file dispositive motions:  
Present date November 17, 2006. Proposed new date January 22, 2007.
4. For the date to complete private mediation:  
Present date December 8, 2006. Proposed new date February 16, 2007.

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Stipulation and (Proposed) order to  
Reschedule pre trial and trial dates.

5. For expert disclosure and reports:

Present date December 22, 2006.

Proposed new date March 2, 2007.

6. For the last day for the parties to meet and confer (Civil L.R. 16-10(b)(5)).

Present date January 2, 2007.

Proposed new date March 5, 2007.

7. For expert discovery cut off:

Present date January 15, 2007.

Proposed new date March 20, 2007.

8. For trial:

Present date February 20, 2007.

Proposed new date April 24, 2007.

The parties have previously requested and the court has previously agreed to reschedule some of the above dates based on the need to finish taking the plaintiff's deposition, which was completed on October 31, 2006, although it has not yet been transcribed and to allow the parties adequate time to attempt settlement through mediation.

At plaintiff's deposition it became apparent from his testimony that his medical condition is not stable, that his future employment options are uncertain and speculative, that he has been advised by one of his treating physicians, Dr. Richley to have a fusion operation on his back, that he wants to have a second medical opinion, that he does not know if he can or will want to or be able to return to his previous occupation working in the Steward's department on ocean going ships if he has this fusion operation, and that he is presently uncertain about his future work plans. These factors make it presently difficult if not impractical or for any of the parties to evaluate the settlement value of the case or to hold a meaningful mediation and the parties are all in agreement that the rescheduling of the above court dates will allow the parties the time they need to attempt to resolve this case without having to go to trial on the date presently set or to complete the other requirements of the court set dates.

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1 It is therefore respectfully requested that the court grant the proposed order continuing  
2 the present dates of those events, including trial, set forth above to the proposed dates set forth  
3 above.

4  
5 Dated: November 9, 2006

THE LAW OFFICES OF  
HARVEY I. WITTENBERG

6  
7 By: S/ HARVEY I. WITTENBERG  
HARVEY I. WITTENBERG  
8 ATTORNEYS FOR DEFENDANT  
HORIZON LINES, LLC.

9  
10 Dated: November 9, 2006

BANNING, MICKLOW & BULL

11 By: S/ EDWARD M. BULL III  
EDWARD M. BULL III  
12 ATTORNEYS FOR PLAINTIFF

13  
14 Dated: November 9, 2006

FLYNN DELICH & WISE  
15 By: S/ JAMES B. NEBEL  
JAMES B. NEBEL  
16 ATTORNEYS FOR DEFENDANT, U.S.  
SHIP MANAGEMENT, INC.

17 Dated: November 9, 2006

GIBSON ROBB & LINDH LLP

18 By: S/ PETER A. LINDH  
PETER A. LINDH  
19 ATTORNEYS FOR DEFENDANT,  
20 MATSON NAVIGATION COMPANY

21  
22 PURSUANT TO STIPULATION, IT IS SO ORDERED, with the exception that the trial  
23 date is hereby continued to Monday, April 23, 2007. In addition, the pretrial conference is  
hereby continued from February 6, 2007 to April 10, 2007.

24 DATED: November 14, 2006

  
25 UNITED STATES DISTRICT JUDGE  
MAXINE M. CHESNEY

Stipulation and (Proposed) order to  
Reschedule pre trial and trial dates.